

§ 831.1606 Requests from individuals.

(a) An employee who requests credit for service under 5 U.S.C. 8336(c) bears the burden of proof with respect to that service, and must provide the employing agency with all pertinent information regarding duties performed.

(b) An employee who is currently serving in a position that has not been approved as a primary or secondary position, but who believes that his or her service is creditable as service in a primary or secondary position may request the agency head to determine whether or not the employee's current service should be credited and, if it qualifies, whether it should be credited as service in a primary or secondary position. A written request for current service must be made within 6 months after entering the position or after any significant change in the position.

(c) A current or former employee (or the survivor of a former employee) who believes that a period of past service in an unapproved position qualifies as service in a primary or secondary position and meets the conditions for credit may request the agency head to determine whether or not the employee's past service should be credited and, if it qualifies, whether it should be credited as service in a primary or secondary position. A written request for past service must be made no later than June 30, 2012.

(d) The agency head may extend the time limit for filing under paragraph (b) or (c) of this section when, in the judgment of such agency head, the individual shows that he or she was prevented by circumstances beyond his or her control from making the request within the time limit.

§ 831.1607 Withholdings and contributions.

(a) During the service covered under the conditions established by § 831.1603 and § 831.1604, the Department of Homeland Security will deduct and withhold from the employee's base pay the amount required under 5 U.S.C. 8334(a) for such positions and submit that amount, together with agency contributions required by 5 U.S.C. 8334(a), to OPM in accordance with payroll office instructions issued by OPM.

(b) If the correct withholdings and/or Government contributions are not submitted to OPM for any reason whatsoever, the Department of Homeland Security must correct the error by submitting the correct amounts (including both employee and agency shares) to OPM as soon as possible. Even if the Department of Homeland Security waives collection of the overpayment of pay under any waiver authority that may be available for this purpose, such as 5 U.S.C. 5584, or otherwise fails to collect the debt, the correct amount must still be submitted to OPM without delay as soon as possible.

(c) Upon proper application from an employee, former employee or eligible survivor of a former employee, the Department of Homeland Security will pay a refund of erroneous additional withholdings for service that is found not to have been covered service. If an individual has paid to OPM a deposit or redeposit, including the additional amount required for covered service, and the deposit or redeposit is later determined to be erroneous because the service was not covered service, OPM will pay the refund, upon proper application, to the individual, without interest.

(d) The additional employee withholding and agency contribution for covered or creditable service properly made as required under 5 U.S.C. 8334(a)(1) or deposited under 5 U.S.C. 8334(c) are not separately refundable, even in the event that the employee or his or her survivor does not qualify for a special annuity computation under 5 U.S.C. 8339(d).

(e) While an employee who does not hold a primary or secondary position is detailed or temporarily promoted to a primary or secondary position, the additional withholdings and agency contributions will not be made. While an employee who does hold a primary or secondary position is detailed or temporarily promoted to a position which is not a primary or secondary position, the additional withholdings and agency contributions will continue to be made.

§ 831.1608 Mandatory separation.

(a) Except as provided in paragraph (c) of this section, the mandatory separation provisions of 5 U.S.C. 8335(b)